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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/705,936	11/13/2003	Axel Andersson	027651-145	6572
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EXAMINER				
REFAI, RAMSEY				
ART UNIT		PAPER NUMBER		
3627				
NOTIFICATION DATE		DELIVERY MODE		
04/15/2010		ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ADIPFDD@bipc.com  
offserv@bipc.com

### Office Action Summary

**Application No.**

10/705,936

**Applicant(s)**

ANDERSSON ET AL.

**Examiner**

Ramsey Refai

**Art Unit**

3627

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 09 March 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1 and 3-7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/22)
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date: \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_
- Paper No(s)/Mail Date: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Amendment***

Responsive to the Request for Continued Examination (RCE) filed March 09, 2010. Claim 1 was amended. Claim 2 was canceled. Claims 8 and 10-12 remain withdrawn. Claims 1 and 3-7 remain pending further examination.

### ***Response to Arguments***

1. Applicant's arguments have been fully considered but they are not persuasive.

In the response, the Applicant argues:

**Argument A:** *Because both containers have the same identification number there is no reasonable basis for concluding that an event in the plant, such as meat grinding can be registered. At best, the containers can indicate a location in the plant at which the meat products are stored, but cannot reasonably be interpreted as identifying a processing event that has taken place.*

In response, the Examiner respectfully disagrees. Montanari et al teach a method for tracking the production history of food products in a database (**see at least fig 5, abstract**). Tracking numbers are assigned to cattle prior to slaughter and various portions of the carcass of the cattle following slaughter. Tracking numbers are associated with packaging containers used to hold meat products during processing (**see at least column. 9, line 51-column 10, line 9**). The date and time of each process is recorded into the database allowing for determination of each event in the process (**see at least column 16, lines 41-67**).

**Argument B:** *The Official Notice is improper and is timely challenged.*

In response, the Examiner asserts that the Applicant has not adequately traversed the Official Notice taken in the previous action. " To adequately traverse such a finding, an

applicant must specifically point out the supposed errors in the examiner's action, which would include stating why the noticed fact is not considered to be common knowledge or well-known in the art." MPEP 2144.03c. **The common knowledge or well-known in the art statement is taken to be admitted prior art because the traverse was inadequate. MPEP 2144.03.** Furthermore, the challenge is untimely since the Applicant failed to adequately challenge the well known statement when it was initially presented in the non-final action mailed February 24, 2009.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1 and 3-6 are rejected under 35 U.S.C. 102(b) as anticipated by Montanari et al (US 5,478,990).

4. As per claim 1, Montanari et al teach method of tracking materials in a plant that produces liquid foods (**see at least column 16, lines 5-6**), the method being executed by a computer having a database that stores data associated with production units in the plan and comprises the steps comprising:

allocating, in the database, a unit identity to each production unit, the unit identity is registered and identifies the production unit as one of a source and a destination of material during production of the liquid food in the plant; receiving in the computer a material quantity of each material in the production of the liquid food, allocating a first work identity to a material

quantity of a respective material in the production of the liquid; registering the first work identity in the database; registering, in the database, events in the plant with the first work identity of the material quantity of the material (**quantity, see at last column 6, lines 18-20**), wherein the event identifies a transport of at least a portion of the material quantity from a source production unit in the plant with reference to the unit identity allocated to the source production unit in the plant and/or to a destination production unit in the plant with reference to the unit identity allocated to the destination production unit in the plant (**see at least fig 13, column 16, lines 7-18; containers**); and

displaying data associated with at least one event of a specific point in time based on the unit identity of a production unit and the first work identity of the material quantity (**see at least column 17, lines 48-60**).

5. As per claim 3, Montanari et al teach wherein the material quantity is determined by a certain material, by a certain volume of a material and/or a quantity (**quantity, see at last column 6, lines 18-20**).
6. As per claim 4, Montanari et al teach wherein the unit identity and first work identity include a number of figures, letters and/or a combination of figures and letters (**see at least figs 1-2**)).
7. As per claim 5, Montanari et al teach wherein the first work identity of a material quantity changes based on a registered event (**see at least abstract, figs 10-14**).

8. As per claim 6, Montanari et al teach wherein the registered events and a material flow in the plant are illustrated in a user interface using a tree structure (**see at least figs 10-14**).

***Claim Rejections - 35 USC § 103***

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Montanari et al (US 5,478,990) in view of "Official Notice".

11. As per claim 7, Montanari et al teach fails to explicitly teach wherein a work identity of a material quantity includes *washing of at least one of the production units, said second work identity of a material quantity having no source and no destination*. However, "Official Notice" is taken that the washing of production units in a production chain is well known in the art. It would have therefore been obvious to include the washing of at least one production unit as one of the tracked processes in the system of Montanari et al because doing so would allow Montanari et al's system to track all processes in a production chain including the washing of a production unit since the chemicals used to wash the production unit might be of interest in situations where an end product is determined to be tainted. This event would not need a source or destination entry.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ramsey Refai whose telephone number is (571) 272-3975. The examiner can normally be reached on M-F 9:00 am-5:00pm. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Ramsey Refai  
April 11, 2010  
/Ramsey Refai/  
Primary Examiner, Art Unit 3627